

IN THE DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HARVEY STEWART,

Plaintiff,

v.

R. JAMES NICHOLS, SECRETARY  
U.S. DEPARTMENT OF VETERAN  
AFFAIRS,

Defendant.

CASE NO.: 04-11598-WGY

Exhibit 4

Department of  
Veterans Affairs  
Washington DC 20420

Master Agreement  
between the  
National Association of  
Government Employees  
and the  
Department of Veterans Affairs  
May 1992  
VA Pamphlet 05-70  
Revised  
P70470



# Master Agreement between the National Association of Government Employees and the Department of Veterans Affairs

May 1992

**Article 44****REDUCTION-IN-FORCE**

**Section 1 -** RIF's will be conducted in accordance with applicable law, regulation and policy. A RIF exists when an agency releases an employee from his/her competitive level by separation, demotion, furlough for more than 30 days, or reassignment requiring displacement; when lack of work or funds, reorganization, reclassification due to change in duties, or the need to make a place for a person exercising re-employment, or restoration rights requires the Agency to release the employee.

**Section 2 -** Prior to initiating a RIF or Transfer of Function involving unit employees at a field facility, management at the facility will notify the Local President in writing. Such notification will be provided at the earliest opportunity after a determination is made to conduct a RIF or a Transfer of Function, and will include specific information concerning the action to be taken. The Local will be provided with the opportunity to bargain concerning the impact and implementation of these actions.

**Section 3 -** Each competing employee selected for release from a competitive level under this part is entitled to a written notice at least 60 full days before the effective date of release. When a general notice is supplemented by a specific notice, an agency may not release an employee from his or her competitive level until at least 10 days after the employee's receipt of the specific notice.

**Section 4 -** In the event a reduction-in-force is implemented, the employee(s) affected and his/her designated Union representative may review the appropriate retention registers if requested.

**Section 5 -** RIF actions resulting in separation or reduction in grade or pay are appealable to MSPB. Other RIF actions are grievable pursuant to the Grievance Procedure Article of this Agreement.

**Section 6 -** The impact and implementation of a reduction in force is subject to local bargaining.

**ARTICLE 45****EMPLOYEE CONDUCT AND DISCIPLINE**

**Section 1 -** For the purposes of this Article, disciplinary actions are defined as letters of admonishment or reprimand and suspensions of 14 calendar days or less. Adverse actions are defined as suspensions of more than 14 calendar days, reductions in grade and/or pay, and removals.

**Section 2 -** Employees are advised that the rules of conduct of their VA employment are summarized in their VA Handbook. Any employee who does not have a Handbook may request one from the Personnel Office. Additionally, they may review the rules of conduct with a Personnel Office staff member at any time. Employees are responsible for observing the rules of conduct as set forth in the conduct regulations.

**Section 3 -** It shall be the policy of the Employer to effect discipline only for just cause and in a fair manner. Discipline shall be consistent with the punishable act, the degree of the severity of the act, the employment record of the employee, and the principle of consistency of discipline.

**Section 4 -** Local management will conscientiously develop relevant facts with all deliberate speed in order to determine the appropriateness of taking disciplinary action and to administer such discipline when warranted. Management acknowledges the desirability of taking disciplinary action in a prompt manner. Discipline will be initiated within a reasonable period of time of the alleged offense, or within a reasonable time after management becomes aware of the offense.

**Section 5 -** Supervisors will furnish employees with a copy of any final document which they initiate and which is placed in the employee's Official Personnel Folder (OPF). The employee will also be furnished a copy of any report of contact or other document that is to be used to support an action against the employee.

**Section 6 -** The Employer will furnish an extra copy of the letter of disciplinary action and/or proposed disciplinary action which the employee, if he or she desires, may give to a representative of the Union.

**Section 7 -** If the Employer proposes an adverse action, employees will be provided a 30-day written advance notice. The notice must contain a statement of any and all reasons for the proposed adverse action, specifically, and in detail sufficient to enable the employee to fully understand the reasons for the adverse action. The employee will have a reasonable period of time, but not less than fourteen days, to reply orally and/or in writing to an advance notice. The above time frames do not apply where the 30 days advance written notice is not required under the excepted circumstances described in OPM regulations.

**Section 8 -** Employees against whom disciplinary action is taken shall be informed of their right to grieve through the grievance procedure. Adverse actions are appealable only to the Merit Systems Protection Board. Those career employees who may not file such an appeal may file a grievance at step 3 of the negotiated grievance procedure.

**ARTICLE 46****TIME LIMITATIONS ON COUNSELING AND DISCIPLINARY NOTICES**

**Section 1 -** Records maintained by supervisors must conform to the requirements for officially approved systems of records. Supervisors may keep personal notes as a reminder in carrying out their supervisory responsibilities. Any notes which are used to support an official agency action must have been discussed with the employee at the time they were made.

**Section 2 -** A Written counseling for conduct may only be retained for a period of no longer than six (6) months unless there is an additional occurrence within that period, then it may be retained up to one (1) year, and will not be filed in the Employee's Official Personnel Folder.

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**Section 3 - Letters of Admonishment will be removed from the OPF after a one (1) year period. Upon the employee's request, an admonishment may be removed after six (6) months if, in the opinion of the supervisor, the letter of admonishment has served its purpose.**

**Section 4 - Letters of Reprimand will be removed from the OPF after a two (2) year period unless additional occurrences have occurred and then they may be maintained for three (3) years**

#### ARTICLE 47

#### GRIEVANCE PROCEDURE

**Section 1 - Grievance means any complaint:**

A. by any unit employee concerning any matter relating to the employment of the employee.

B. by the Union concerning any matter relating to employment of unit employees;

C. by any unit employee, the Union or the Employer concerning,

(1) the effect or interpretation, or a claim of breach of this agreement, or

(2) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

**Section 2 - This negotiated grievance procedure shall be the sole procedure available to the Union, the Employer and the unit employees, for resolving grievances over the interpretation or application of this Master Agreement, its amendments, or its supplements, or, for unit employees over any dissatisfaction with their working conditions.**

**Section 3 - Excluded from the coverage of this procedure are grievances concerning**

A. Any claimed violation of Subchapter III of Chapter 73 of Title VII of the Act (relating to prohibited political activities);

B. Retirement, life insurance, or health insurance;

C. Suspension or removal under Section 7532 or Title VII of the Act (national security reasons);

D. Any examination, certification, or appointment;

E. The classification of any position which does not result in the reduction in grade or pay of any employee;

F. The separation of an employee during his/her probationary or trial period.

G. re-selection for promotion from a group of properly certified candidates;

H. An action terminating a temporary promotion and returning the employee to the position from which he/she was temporarily promoted;

I. Proposed disciplinary/adverse actions;

J. Matters appealable to the Merit Systems Protection Board, and

K. EEO complaints.

**Section 4 - Most grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. The Employer and the Union agree that every effort will be made by Management and the aggrieved party(ies) to settle grievances at the lowest possible level.**

**Section 5 - Reasonable time during working hours will be allowed for employees and Union representative to prepare and/or present grievances.**

**Section 6 - An employee and/or his/her representative are encouraged to discuss issues of concern to them, informally, with his/her supervisor at any time. Likewise, an employee and/or his/her representative may request to talk with other appropriate officials about items of concern without filing a grievance if they choose. The following steps will be followed when an employee grievance is initiated. Grievances should be initiated at the lowest step of this procedure where the management official has the authority to take corrective action to resolve the grievance. However, the time limits to initiate a grievance will be as set forth in Step 1, regardless of the step at which the grievance is initiated.**

**Step 1 - The grievance must be submitted by the aggrieved employee, or his/her designee, orally or in writing, within 14 calendar days from the date of the act or occurrence, or the employee's awareness thereof, to the employee's immediate supervisor (or designee). The employee's immediate supervisor (or designee) will meet with the aggrieved employee to discuss the grievance. The employee may be accompanied by the local steward who will ordinarily be the one designated to represent the employee's Service. The immediate supervisor (or designee) will provide the employee with a decision on the issue within 10 calendar days after receipt of the grievance. If the grievance is submitted in writing, the grievance should contain the specific nature of the complaint, the date of the incident, the desired remedy, and the Supplemental(s) which is (are) at issue. A written grievance requires a written response. If the grievance is presented orally, the grievant and/or the grievant's representative must advise the supervisor in advance that the meeting is for the purpose of presenting a grievance.**

**Step 2 - If no mutually satisfactory settlement is reached as a result of the first step consideration, the aggrieved may submit the grievance.**

under the second step. Such notification will be in writing and state the specific nature of the complaint, the date of the incident, the desired remedy, and the article(s), if applicable, of the Agreement (either Master or Supplemental) at issue. Such grievance must be presented within 10 calendar days of receipt of the Step 1 decision. The grievance at Step 2 will be submitted to the Service Chief (or designee). If the Service Chief is the immediate supervisor, the grievance will be submitted to the next higher Management Official below the Director. The Management Official receiving the grievance at Step 2 will meet with the aggrieved employee. The employee may be accompanied by the Chief steward, or his/her designee. The Management Official will provide the employee with a written decision on the issue within 10 calendar days after receipt of the grievance.

**Step 3** - If no mutually satisfactory settlement is reached as a result of the second step, the aggrieved may submit the grievance to the Director (or the Director's designee) within 10 calendar days of receipt of the decision at Step 2. The Director, (or designee) will meet with the aggrieved employee to discuss the grievance. The employee may request the assistance of a Local Union representative and/or a National Office representative at this step. The Director (or designee) will render a decision, in writing, within 14 calendar days after receipt of the grievance.

**Step 4** - If no mutually satisfactory settlement is reached, only the union or management may refer the matter to arbitration within 30 calendar days of the date of receipt of the Step 3 decision. All time limits in this Article may be extended by mutual consent of the parties of this Agreement.

**Note:** For National Cemetery System employees, the immediate supervisor will be the appropriate official at Step one; Step two will be the Cemetery Director or his/her designee. The Step three official will be the Area Office Director or his/her designee. Where the Cemetery Director is the immediate supervisor, then step one will be omitted.

**Note:** For grievances concerning Canteen employees, the Step 1 official will be the immediate supervisor, the Step 2 official will be the Chief, Canteen Service, and the Step 3 official will be the VCS Regional Director. If the immediate supervisor is the Chief, Canteen Service, then Step 1 will be omitted.

**Section 7** - If the prescribed, or extended, time limits are not met by management officials or the Union at any time, the Local, Management, or the employee may proceed to the next step. In these instances, the Local may request an explanation from the Director as to the reasons why a supervisor failed to respond. The Director will furnish the Local with a written explanation. If the grievant fails to pursue a grievance within the time limits so specified, the grievance will be considered resolved at the last step.

**Section 8** - An employee may terminate his/her grievance, in writing, at any time. If an employee resigns, dies, or is separated by an action other than removal before a decision is reached on a grievance being

processed and no compensation issue is involved, action may be stopped (if compensation is involved, the grievance will not be terminated). All interested parties will be notified that, because of separation, the case is being closed without a decision. In the instances above, if the grievance is identified to be of a nature where it would provide relief for employees other than the grievant, the Union may elect to continue the grievance.

**Section 9** - Unit employees covered by this Agreement may present a grievance which may be adjusted with or without Union representation at the grievant's discretion. However, the Union shall have the right to have its representative present at the adjustment. This right to individual representation does not include the right to take the matter to arbitration, unless the Union agrees to do so.

**Section 10** - Union grievances shall be filed with the Director within 14 days of the matter grievance or 14 days of the Union becoming aware of the matter grievance. The written grievance will identify the matter grievance and the relief sought. The parties will meet within 10 days to discuss the grievance. The Director will provide a written decision within 14 days of the meeting.

**Section 11** - Employer grievances shall be filed with the Union President by the Director or designee within 14 days of the matter grievance or 14 days of the Employer becoming aware of the matter grievance. The written grievance will identify the matter grievance and the relief sought. The parties will meet within 10 days to discuss the grievance. The Union President will provide a written decision within 14 days of the meeting.

**Section 12** - A grievance affecting more than one facility may be brought by the NAGE National office or VA Headquarters within 30 calendar days of an incident (or awareness of an incident) which gave rise to the grievance. The grievance will be filed with the respective designated representative. The grievance shall specify the basis for the grievance and the corrective action sought. Written decisions will be issued within thirty (30) calendar days of receipt of the grievance.

**Section 13** - It is agreed that, when a group has an identical grievance, it will be considered in the same manner as an individual complaint of one employee and the decision will be binding on all identical cases.

**Section 14** - Upon the filing of a grievance, an employee, and/or his/her representative, shall be allowed to review any documentation considered to support taking the action that is being grieved that is releasable under current law and regulation. This should be provided at the earliest possible time after requested. At their request, employees or their representatives will be provided with a copy of any of the material reviewed that is necessary to process the grievance.

#### Article 48

#### ARBITRATION

**Section 1** - If the parties fail to satisfactorily resolve a grievance, either party may invoke binding arbitration by informing the other, in writing,